

# "Charitable Chatter"

## Office of Charitable Gaming

Volume 4, Issue 1

In this issue:

- *Organizations Speak Out (pages 1- 4)*
- *Frequently Asked Questions (pages 4-9)*

August 2006

Special points of interest:

- *Learn What Organizations Are Saying.*
- *Executive Staff Determinations.*

### ORGANIZATIONS SPEAK OUT

The new regulations became effective March 31, 2006. Since that time several questions have arisen regarding problems that the organizations are having with the new regulations and the Office. These problems can primarily be divided into the following topics.

#### I. Fines

**Problem:** 1) Organizations are frustrated because up until now they had never been told there were problems with their quarterly reports. 2) They are just now receiving notices of violation for quarterly reports for 2005 and they have filed subsequent quarterly reports which are also incorrect. They are concerned they will be additionally fined without having the opportunity to fix the problem. 3) The organizations feel that the amount of the fines is unwarranted.

**Discussion:** Until late 2004, the office did not routinely write violations for quarterly reports that did not comply with the statute and the regulations even though KRS 238.550(5) and 820 KAR 1:130 provided for such violations. The office started enforcing the statute and regulations as written and started writing warning letters and violations pursuant to 820 KAR 1:130 Section 2 (1).

The processing of quarterly reports and the writing of violations became backlogged in 2004 and 2005 due to staffing issues. The processing of quarterly reports became current in the first quarter of 2006. Quarterly reports are now processed when they are filed. However, given the large amount of reports filed, it still takes approximately one quarter to process all the quarterly reports.

Once the violations are written they are referred to the legal department to send out. The legal department is now sending out violations for the third quarter of 2005. If the legal department sees that a new violation has occurred since that time, it will wait and send them out all together. However, an organization is not refined if they have not had a chance to fix the problem before they file additional quarterly reports. Also, the office agreed with the organizations' complaints about the amount of the fines and has reduced the recommended fines. However, these reductions in the new violations have not yet reached the organizations because of the back log in the legal department.

**Solution:** If you receive a violation that you believe to be in error, don't understand or just want some mercy in the fine, please appeal. Most of the appeals are resolved without requiring the organization to have a hearing or retain counsel. Many are resolved by reducing the violation to a warning or reducing the fine if the organization will come to training and take other corrective action.

The office understands the impact of fines on an organization and is therefore working on developing a fine schedule which can be incorporated into the regulation. Input from organizations is appreciated.

## II. Vouchers

**Problem:** The vouchers required to account for gaming supplies given away require additional paperwork for an organization. This is particularly true in two instances: Vouchers for pre-selling packs and vouchers for promotional packs. The regulations speak of the vouchers as a separate sheet of paper that the organization is required to keep. 820 KAR 1:036 Section 2 (16)(17)(18)(19)(20); 820 KAR 1:046 Section 9 (4) (5) (6). The office will propose amending the regulation to require that the information be kept in the session record. The organization may use a book, add the information to the bottom of the page or anything else that captures the information required and is easiest for them.

**Discussion:** If the organization sells and gives away the same gaming supply it is impossible for them to reconcile the amount of money that they should have at the end of the night. It is also impossible for the office to audit those records. Therefore, the regulations require that if the organization gives away a gaming supply that they are also selling, a voucher must be completed with the name of the patron so there is some means of verifying the product was really given away. This requires more paperwork for the organization, particularly in instances when they are giving away a lot of product as a promotion. 820 KAR 1:036 Section 2 (17) (18) (19) (20).

### 1) Vouchers for bingo paper as a promotional item.

**Solution:** The group can list this pack on the program and list the price as \$0, complimentary, free, promotional or something indicating there is no charge. In this case they have complied with 820 KAR 1:046 Section 1 (13) which requires that the price of the bingo paper be listed on the program. However, they cannot sell this type of pack the same night without a voucher. If they wish to start selling the pack, they will have to buy a new case of paper with a different serial number. A regulation change will be proposed.

### 2) Vouchers for pre-selling packs.

**a) Scenario:** Organization games at 7:00 p.m. and midnight. Packs for both sessions are \$10. They would like to sell packs for the midnight session when the patron comes through the line at 7:00 p.m. How should it be handled?

**Option 1:** Sell the patron a gift certificate at the 7:00 p.m. session for the pack for the midnight session and have them redeem it with a voucher at the midnight session when they get their pack of paper.

**Option 2:** Sell both packs at 7:00 p.m. and hand them to the patron. If the organization uses this option, the pack for the midnight session must be of a different serial number and color or border so the patron cannot use both packs for both sessions.

**b) Scenario:** Organization games at 7:00 p.m. and midnight. Packs for both sessions are \$10. However, if the patron buys the midnight packs at 7:00 p.m. it is \$5. They would like to sell packs for the midnight session when the patron comes through the line at 7:00 p.m. How should it be handled? Is the discounted pack considered a prize that must be included in the payout or a promotional item?

The discount is considered a promotional item since it is available to everyone and does not have to be included in the payout. The organization has two options on how to handle it.

**Option 1:** Sell the patron a gift certificate at the 7:00 p.m. session for the pack for the midnight session and have them redeem it with a voucher at the midnight session when they get their pack of paper.

**Option 2:** Sell both packs at 7:00 p.m. and hand them to the patron. If the organization uses this option, the pack for the midnight session must be of a different serial number and color or border so the patron cannot use both packs for both sessions. The organization would also have to use a different set of paper with a different serial number for the packs sold at the midnight session for \$10. Therefore, the organization would have to have three sets of paper.

**c) Office Recommendation:** Given the amount of paperwork that would have to be completed or the amount of paper that would have to be purchased, the office recommends that the organization sell paper at one price for both sessions and require the patrons to purchase the paper for the second session at the second session. Since the patron has to come up and redeem the voucher to get their new pack of paper it would be just as easy to pay for it.

### **III. Volunteer Limit**

The legislature has been very clear in the statute that volunteers in charitable gaming shall not be compensated. Organizations struggle to find volunteers to work their games. However, some organizations use professional volunteers and these volunteers are present at almost every session in a bingo hall, sometimes up to eight or nine sessions per week. Given that most organizations struggle to find volunteers, these people might be obtaining some compensation for volunteering, primarily receiving tips from the patrons. The statute is very clear that an individual receiving tips is considered a diversion and is punishable as a crime. KRS 238.540 (4); KRS 238.995 (4).

In order to combat the professional volunteers, the office originally drafted a regulation prohibiting anyone from volunteering more than two times a week. However, through the regulation process several organizations complained that the limit should be raised because they had other organizations for whom they also volunteered or they had kids in more than one sport. The office amended the proposed regulation to raise the limit to four sessions per week.

The organizations raised the concern that they were getting punished for something they could not police. They did not know or have the ability to control for whom else their volunteers also volunteered. For that reason, the limit was moved to the compensation section and made to be prima facie evidence of compensation. The legislative review committee did not believe the office could set a legal standard by regulation, so the regulation was amended to say that volunteering over four times was a rebuttable presumption of compensation.

This allows the office to investigate such circumstances and determine whether compensation is occurring. This allows the volunteer who has volunteered over four times that week to explain the circumstances. If they are legitimate and would occur only rarely, no action will be taken.

### **IV. Worksheets**

The worksheets provided by the office are not official forms and do not have to be used by the organization. 820 KAR 1:058 outlines the records that must be kept by the organization for each gaming session. If the organization's current session sheets contain the information required by the regulation, then the organization does not need to make any changes.

The worksheets were provided by the office as a courtesy and to assist organizations with compliance. They are available on the Web site and provided to organizations on CD in excel spreadsheet form so the organization can tailor them to fit their game.

The worksheets were designed as a one size fits all item. Since the worksheets designed by the office include all the information required by the regulation, the office suggests that the organization start with the office worksheets and delete what they do not need. They can also combine information on one page if that is easier for them. The office will be happy to help design an organization's session sheets or review the ones they have to ensure they are in compliance.

### **V. Unsold Raffle Tickets 820 KAR 1:058 Section 6 (1) (a) (r)**

The new regulations embody a concept of internal control and verifiable receipts. One of the largest areas where receipts cannot be verified is unsold raffle tickets. It is currently the practice of several organizations to mail out raffle tickets to their members and ask them to sell them. They then receive ticket stubs and money in the mail. The organization may reconcile the money to the stubs received but they never know if the tickets that were not returned were sold and the money not turned in, or if they were not sold.

Therefore, the regulation requires the organization account for all the tickets printed including the unsold tickets. The organization must list to whom all the tickets were sent and whether or not they received them back. This is the only method the Office has found to account for the unsold tickets. The office has been working with Catholic Conference and the Diocese regarding these issues to hopefully find a better solution. So far this is the only way to account for the money.

## VI. 40 Percent Retention Requirement

Organizations continue to complain about the 40 percent retention requirement set forth in KRS 238.536(1) particularly given the rising cost of expenses. However, this requirement is set by the legislature and cannot be changed by the office. A comparison of the retention figures is set out below.

Year	Total Gross	Total Payouts	Total Adjusted Gross	Total Expenses	Total Net	Retention	#of 40% viol.
2003	588,431,015.00	497,259,147.00	91,171,868.00	39,847,726.00	51,324,142.00	55.58%	88
2004	569,859,428.00	478,759,954.00	91,099,473.00	39,097,544.45	52,001,929.00	57.52%	87
2005	545,647,574.00	456,724,892.31	88,922,681.42	36,211,442.32	52,711,239.10	59.28%	52

As you can see, gross receipts have continued to fall but the total net to organizations and the retention percentage continue to rise. The number of organizations that fall below the 40 percent has also continued to fall. Also, while the organizations say that the cost of expenses has risen, the percentage of expense to gross has remained constant at 6 percent for the last three years and the percentage of expense to adjusted gross has fallen from 43 percent to 40 percent. Therefore, it appears that expenses have fallen. It is clear organizations are gaming smarter and making more money.

## VII. Conclusion

As always, if your organization has questions, concerns, complaints, needs an explanation or needs training please call us. Our agency has an open door. We will be happy to meet with you, take your questions and discuss your concerns, problems and solutions.

## FREQUENTLY ASKED QUESTIONS

### Bingo Rules of Play

**Question:** The organization sells a package. Included in the package are the speed games. The organization currently allows patrons that may be hearing impaired to give back the paper for the speed games plus \$1 for a different game to be played later in the evening. Can the organization continue to do this? If so, how should it be accounted for in the organization's records? If not, what options might be available to the organization in this circumstance?

**Answer:** 820 KAR 1:001 Section 1 (6) defines a package as "a group of bingo paper sheets or packs that are assembled together by an organization for sale at a gaming occasion."

Once the package is assembled, items cannot be swapped in or out. This creates a different package and a different set of serial numbers have to be used and recorded separately on the session records. Therefore, in this situation, the speed game should be sold separately.

**Question:** Can an organization pre-print Player Pick sheets and can a patron use the Quik Pik option?

**Answer:** Yes. 820 KAR 1:046 Section 5.

**Question:** Can an organization sell an unlimited amount of paper for a certain price (i.e. all you can play for \$20), or up to a certain amount of paper (faces) for a certain price (i.e. up to

20 faces for \$20)?

**Answer:** No - an exact amount of paper must be sold for an exact price. 820 KAR 1:046 Section 1 (17); 820 KAR 1:058 Section 2 (f).

**Question:** How does an organization account for bundling?

**Answer:** A charity doing bundling must have a person at the end of the table to count exactly what each customer has picked to make up their combination of faces and keep a record of it. No patron will be allowed to take less than the number of faces being sold. 820 KAR 1:046 Section 1 (17); 820 KAR 1:058 Section 2 (f).

**Question:** A patron comes in and purchases a package from the organization. The patron spills something on one item in the package and asks for a replacement of that one item. Should the organization replace the one item only? If so, from which set of paper (serial number) should it be replaced with and what records should be kept? Or, should the organization destroy the whole package and replace the package as a whole?

**Answer:** Sheet by sheet replacement out of one pack (or as many as necessary) is allowed. Record packs and/or sheets destroyed on session record pursuant to 820 KAR 1:058 Section 2 (e) at the end of night.

**Question:** Can an organization play Spin the Wheel in conjunction with a Bingo game? For example, the wheel is spun at the end of the game and the spin determines the amount to be awarded.

**Answer:** No - before selecting or calling the first number of the game, the bingo caller shall call out the amount of the prize to be awarded. 820 KAR 1:046 Section 2 (3).

**Question:** Can an organization offer for sale a packaged product, which on their program identifies a specific price for each pack or sheet within the package, and also sell the same pack or sheets as extra sales at the same price without having to use a different set of paper and/or different serial number?

**Answer:** No - There is no reason to package these items if they are sold for the same price individually. This only complicates recordkeeping and inventory and puts an enormous time burden on the organization. The organization should sell all these products individually. If the organization is concerned that a patron will not spend a minimum amount to play bingo, they can include a minimum buy-in as a house

rule. 820 KAR 1:046 Section 1 (17); 820 KAR 1:058 Section 2 (f).

**Question:** Does the organization have to give a refund for a card-minding device (CMD) if they don't want to?

**Answer:** No - the regulation just sets out the procedure if a refund is given. 820 KAR 1:044 Section 6 (8) provides that "the organization shall void the original transaction and issue a new receipt if a player requests a partial or full refund."

**Question:** Does the organization have to have the alternate payout listed on the program?

**Answer:** Yes – 820 KAR 1:046 Section 2 (4) and 820 KAR 1:058 Section 1 (3)(i) require that the organization have "a copy of the gaming occasion program, which shall include a printed listing of all bingo products for sale and the price of each product and all bingo games played and the payout for each game." Therefore, organizations must list alternative payouts. 820 KAR 1:046 Section 2 (3) provides that "before selecting or calling the first number in a game, the bingo caller shall call out the amount of the game prize to be awarded." Therefore, the alternative payout must be announced prior to the game.

**Question:** Can a progressive bingo have a consolation prize?

**Answer:** Yes - if both prizes are listed on the program. 820 KAR 1:058 Section 1 (3)(i) requires that the organization have "a copy of the gaming occasion program, which shall include a printed listing of all bingo products for sale and the price of each product and all bingo games played and the payout for each game."

**Question:** Can an organization provide bingo paper as a promotional item and not have to use vouchers for record keeping purposes?

**Answer:** Yes – provided the organization lists the type of paper (packs or sheets) on the gaming occasion program showing the price of each pack or sheet as \$0, complimentary, free or promotional item. However, organizations must comply with 820 KAR 1:058 Section 2 (1) (d) and record how much paper was given away on their session sheet. The office will propose amending the regulation.

### Raffles

**Question:** An organization receives cash donations from businesses for raffle prizes. The raffle sales are started in January and the drawing is not held until May. Where should this cash be deposited until the drawing? From what account

should the raffle prizes be awarded when the drawing is held? Should the raffle prize be shown on the quarterly report as a cash payout? Or, should it not be shown on the quarterly

report as a cash payout because the cash had been donated?

**Answer:** Deposit cash donations into the general account and pay the cash prize out of the general account. Report as cash payout on quarterly report.

**Question:** Can raffle tickets be sold in the state if the raffle is conducted elsewhere? Can you draw in the state if you are not licensed?

**Answer:** No - KRS 238.505 (2) defines charitable gaming to include raffles. KRS 235.535 (1) provides that any organization conducting charitable gaming in the state shall be licensed.

**Question:** Can you draw out of state if you are licensed?

**Answer:** No - KRS 238.535(8)(d) provides that an organization licensed by the state may draw in any county in the state with permission of the office.

**Question:** Can raffle tickets be given away?

**Answer:** No - KRS 238.545 (3) provides that “tickets for a raffle shall be sold separately, and each ticket shall constitute a separate and equal chance to win.”

**Question:** How are raffle prizes identified if they are not on the ticket?

**Answer:** The other prizes can be announced prior to the drawing. KRS 238.545 (3) provides that all prizes for a raffle shall be identified in advance of the drawing and all prizes identified shall be awarded. 820 KAR 1:050 states that the ticket list each prize valued at over \$500.

**Question:** What if all the ticket stubs were not included in a drawing and the prize is given away?

**Answer:** The winner will get to keep the prize but the organization will be written a violation. 820 KAR 1:050 Section 3 (3) provides that each ticket seller shall return the stubs sold prior to the drawing and they shall be placed in the receptacle.

**Question:** Can raffle tickets be run off a copier and hand numbered?

**Answer:** No – If they were run off a copier and hand torn the tickets would be of unequal size and not have an equal chance

to win pursuant to KRS 238.545 (3).

**Question:** Can an organization sell raffle tickets online?

**Answer:** Yes - but the organization may want to check with the U.S. Post Office regarding their regulations. Postal regulations may prohibit tickets from being mailed. In this case, the organization would need to fill out the ticket and give the stub to the buyer when the buyer comes to the raffle.

**Question:** Must a winner of a raffle drawing claim the prize if the winner prefers to donate the prize back to the organization?

**Answer:** Yes - KRS 238.545 (3) provides that “all prizes for a raffle shall be identified in advance of the drawing and all prizes identified shall be awarded.” If the winners wish to donate it back to the organization or to another organization, they must do so after they claim the prize and after the winner’s information is recorded on the session record and on the quarterly report, if necessary.

If the winner does not claim the prize, the prize must be awarded to another winner pursuant to 820 KAR 1:050 Section 3 (6) which provides that “[i]f a raffle winner does not claim the prize within 30 days after having been contacted, the organization shall notify the Office of Charitable Gaming and draw another ticket in the presence of office personnel.”

### **Pulltab Rules of Play**

**Question:** What are the differences between pulltab games?

**Answer:** The difference between the games is subtle but very important.

**Multipackaged Deal** 820 KAR 1:001 Section 1 (46); 820 KAR 1:036 Section 2 (3).

- one deal with same serial number with less than 4,000 tickets (**The office is proposing changing the regulation to increase ticket limit, no action will be taken on these games pending the change in regulation**);
- individual ticket winner cannot exceed \$599 whether on the ticket or on the prize board;
- total value of prize board **can** exceed \$2,400 (i.e., can have \$599 under each window on the board as long as ticket does not include any other winners); and
- may be played with or without a prize board



**(regulation needs to be changed).**

Cumulative Game 820 KAR 1:001 Section 1 (19); 820 KAR 1:036 Section 7.

- multiple deals that contribute to a prize board (different serial numbers);
- more than 4,000 tickets;
- individual ticket winner cannot exceed \$599 not including the value of the prize on the board; and
- total board **cannot** exceed \$2,400 whether all in one window or spread out.

Progressive Game 820 KAR 1:001 Section 1 (54); 820 KAR 1:036 Section 6.

- multiple deals that contribute to a prize pool which increases in value until won;
- may be played with a new jackpot card each time or may be played off original jackpot card until won;
- instructions will designate how many pulls a holder gets off either card; and
- if charity plays original card, must play it until it is won; can develop house rules for how to handle “guaranteed” winner.

**Question:** Can an organization award a pulltab prize to a winner that cannot produce (because the patron lost or threw away) the winning ticket even though the organization saw the winning ticket during the current or prior session?

**Answer:** No - 820 KAR 1:036 Section 1 (10) provides that an organization cannot pay a winner unless the serial number on the ticket matches the serial number on the seal card. Clearly, if the patron does not have the ticket, this verification cannot be made.

**Question:** What is the correct procedure for mixing pulltabs? How long before the session do pulltabs have to be mixed? Does the organization have to sign the pulltab box when mixed?

**Answer:** 820 KAR 1:036 Section 2 (1) requires that pulltabs “be removed from the box and mixed together prior to sale.” This ensures randomization. The office will not dictate when or how the organization should accomplish this requirement

unless there is a particular problem with a particular organization.

**Question:** If a pulltab game is defective and the distributor and/or manufacturer needs the tickets back to give a refund, can the organization keep a copy?

**Answer:** Yes - While 820 KAR 1:036 Section 2 (15)(1) requires that an organization keep for 12 months “all winning pulltabs with a prize value of \$50 and over” the organization can keep a copy of the ticket with a memo explaining the problem if the manufacturer needs the original ticket back to make a refund or solve a problem.

**Question:** Can an organization sell pulltabs at their office location?

**Answer:** Yes - but they must inform the office when they are going to sell them at the office location on the license application. If they don’t list this information on the license application, then the organization must complete a change request and pay \$25. KRS 238.545 (1) (c) states that pulltabs shall be sold only at the address of the location designated on the license to conduct gaming.

**Question:** Must the organization attach a copy of the valid state identification card which contains the name, address, date of birth and state identification number of a winner to the jackpot prize card?

**Answer:** Yes – While KAR 820 1:036 (6) (12) requires this picture ID from all winners of a progressive pulltab game jackpot prize, the photo copy of the pictured ID can be kept with session records until the completion of the game and then attached to the jackpot prize seal card for record keeping purposes.

**Question:** If a patron presents a mutilated, defaced or torn winning pulltab for redemption which does not allow for the verification of serial number, winning symbol and/or number, would an organization be required to award the prize?

**Answer:** No - 820 KAR 1:036 Section 1 (10) provides that an organization cannot pay a winner unless the serial number on the ticket matches the serial number on the seal card. The serial number must be on the same part of the ticket as the undefaced winning symbol.

### **Carryover Door Prizes**

**Question:** Are carryover door prizes or discounts, i.e. every time you come in you put your name in a jar and once a month they draw, every time you come you get your coupon punched

and you get the 10 pack for free or at a discount, or player reward programs allowed?

**Answer:** Yes – it is considered a door prize and the fair market value of the prize would have to be included in the \$5,000 payout limit on the night it is given away. KRS 238.545(1)(a) provides that “no licensed charitable organization shall award prizes for bingo that exceed \$5,000 in fair market value per 24 hour period, including the value of door prizes.” 820 KAR 1:040 Section 10 (1) provides “the values of bingo cards or free packets or charity game tickets awarded players, whether awarded as door or bingo prizes, as birthday prizes, or for any other reason, shall be included in the price limit of \$5,000 per 24 hour period prescribed in KRS 238.545(1).”

**Note:** Below is how to handle the different scenarios:

Get ticket punched and get 10th bingo pack free – a voucher would need to be completed and fair market value (FMV) would need to be included in payout limit on night pack given away;

Get ticket punched and get 10th pack at a discount – would have to have a different set of paper and FMV would need to be included in payout limit on night pack given away;

Put a ticket in a jar every time you come for a month and on the last night of the month they draw for a prize – FMV of prize given away should be listed on the session sheet as a door prize the night it is given away and FMV would need to be included in payout limit on night given away; and

Point of sale tracks patrons who buy a CMD and the person who buys the most during the month gets a prize - FMV of prize given away should be listed on the session sheet as a door prize the night it is given away and FMV would need to be included in payout limit on night given away.

### **Accounting**

**Question:** Can an organization sign a withdrawal slip for start up cash?

**Answer:** No – they must use a check. KRS 238.550(3) provides that no check drawn on the charitable gaming account may be made payable to cash or bearer, except that a licensed charitable organization may withdraw start-up funds for a charitable gaming event or session from the charitable gaming account by check made payable to cash or bearer. The start-up funds must be redeposited into the charitable gaming account together with all adjusted gross receipts derived from the particular event or session. Checks shall be imprinted with

the words “charitable gaming account” and shall contain the organization’s license number on the face of each check. Payments for charitable gaming expenses, prizes purchased and charitable donations may be made by electronic funds transfer if the payments are made to specific persons or organizations.

**Question:** How does an organization account for food expenses if provided to all patrons who enter a special limited charity fundraising event (SLCFE) including a poker tournament?

**Answer:** The cost of that food comes from the gaming account and it is reported on the quarterly report as an promotional expense. 820 KAR 1:056 Section 4 (3)

**Question:** Who can make nightly deposits from gaming session receipts?

**Answer:** KRS 238.550 (1) states that “all adjusted gross receipts from charitable gaming shall be handled only by chairpersons, officers or employees of the licensed charitable organizations.”

### **Charity Fundraising Event Gaming Occasion Programs**

**Question:** Are organizations required to have a gaming occasion program during their charity fundraising event (CFE)?

**Answer:** Yes...for their bingo game and any special limited games played as a tournament. 820 KAR 1:058 Section 8 (3) (b); 820 KAR 1:058 Section 1. Otherwise...no.

### **Special Limited Games at a CFE**

**Question:** Do special limited games played at a CFE have to comply with all the requirements of KRS 238.547?

**Answer:** No – the regulation is incorrect and a change will be proposed.

### **Donations**

**Question:** Can one organization make donations to another organization?

**Answer:** Yes – but only if it is within their charitable purpose to donate to other groups. KRS 238.535(8) (c) provides that the organization shall demonstrate to the satisfaction of the office that the organization has made reasonable progress in accomplishing its charitable purpose during this period. “As used in this paragraph, ‘reasonable progress in accomplishing its charitable purposes’ means the regular and uninterrupted



conduct of activities within the Commonwealth or the expenditure of funds within the Commonwealth to accomplish relief of poverty, advancement of education, protection of health, relief from disease, relief from suffering or distress, protection of the environment, conservation of wildlife, advancement of civic, governmental or municipal purposes or advancement of those purposes delineated in KRS 238.505(3).”

Therefore, a group may make donations to other groups only if it is within their charitable purpose as stated on the license application or in the articles of incorporation and in the application to the IRS to obtain tax exempt status.

**Question:** Can organizations make donations to other groups to work their games?

**Answer:** No - KRS 238.540(4) provides that “[n]o person engaged in the conduct and administration of charitable gaming shall receive any compensation for services related to the charitable gaming activities, including tipping.” An organization is considered a legal person. Therefore, they cannot receive any compensation for working a game.

If the charitable purpose of the organization with a gaming license allows donations to other groups and it is making donations to groups that work its game, it becomes a factual analysis to determine if the donation is in exchange for working the game. The office looks to how often the group works the game, how often the donation is made, whether the donation is an odd or even number and how much the donation is.

### Licensing

**Question:** In addition to bingo sessions, do organizations have to inform the office exactly when and where they are going to game?

**Answer:** Yes - for bingo, pulltabs and non-cash prize wheels the organization has to provide this information in the license application and it is printed on the license.

Currently, organizations can list these times of gaming in answer to the question above. However, the license application is going to be amended to make it easier to list the times of other types of gaming. If the information is not contained in the license application then a change of request must be completed and the organization must pay \$25.

As for raffles, the office presumes that organizations are drawing at their office or gaming location. They do not have to tell us when. If they are going to change location, they have

to complete a change of request and pay \$25. 820 KAR 1:015 Section 4.

### Distributors

**Question:** Is it acceptable for a distributor to deliver supplies to an organization and leave supplies outside the locked storage cabinet of the organization?

**Answer:** No – the pertinent regulations are: 820 KAR 1:032 Section 11 (2) and 820 KAR 1:042 Section 5 (2) which allow the distributor to deliver the supplies to a person or leave supplies at a location and 820 KAR 1:036 Section 1 (4) and 820 1:046 Section 1 (6) which requires an organization to store their charitable gaming supplies in a secure storage area.

Pursuant to the regulation, the distributor may make delivery in two ways: The distributor may deliver supplies to a person and have that person sign the invoice; or the distributor may deliver supplies to a location and the organization must contest the invoice within seven days if parties disagree. In the second situation if the supplies are not placed in a locked storage area by the distributor, ownership of the supplies has not changed hands and the distributor is storing charitable gaming supplies in a facility and may be in violation of KRS 238.530 (10) (i).

Therefore, the appropriate procedure is to have the organization take personal delivery of the supplies or have the distributor place the supplies in the organization’s locked storage area.

**Question:** If there is a distributor representative present during an organization’s gaming occasion, what can a distributor do?

**Answer:** A distributor representative can only be present to advise, consult and train. Ideally, they would not be present during the gaming session or only infrequently when there is a new group or chairperson. If they are consistently present and giving detailed instructions to the same volunteer every time a compliance officer is present, the office will find that they are functioning as a volunteer for the organization.

If the distributor is present they may instruct the organization on how to operate card-minding systems (computers). Distributors are not allowed to operate the point of sale system, operate the card-minding devices, fix the machines, load or transfer cards or hand the card-minding devices out to patrons. Distributors may pick up the card-minding devices after the organization has completed their gaming occasion and place card-minding devices into the charging racks.

### **Volunteers**

**Question:** Would money supplied by a volunteer to a patron during a gaming occasion to play bingo and pulltabs on the volunteer's behalf, of which winnings would be split between the patron and the volunteer, constitute volunteer participation in gaming activities?

**Answer:** Yes. It's a partnership/joint venture so the legal effect is the same as if the volunteer was playing in violation of 820 KAR 1:036 Section 1 (5) and 820 KAR 1:046 Section 1 (7).